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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,160	07/03/2003	Truong Nguyen	9817-155/COA	9186
27572	7590	10/16/2003	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			VORTMAN, ANATOLY	
			ART UNIT	PAPER NUMBER

2835

DATE MAILED: 10/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Applicati n No.</b>	<b>Applicant(s)</b>	
	10/613,160	NGUYEN, TRUONG	
	<b>Examiner</b>	<b>Art Unit</b>	
	Anatoly Vortman	2835	

**-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \*   c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                            | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>0803</u> . | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "said housing" in lines 11 and 13 of the claim. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 8, 9, 11, and 12, are rejected under 35 U.S.C. 102(b) as being anticipated by US/4,533,894 to Bishop et al., (Bishop).

Regarding claims 1, 4, 5, 8, 9, and 12, Bishop disclosed (Fig. 1-7), a bimetal snap disc thermostat comprising:

- a phenolic body assembly ((10, 11, 17); column 2, line 35) having a predetermined thermal limit;

- a switch (18, 22, 23) in said body assembly (10, 11, 17);

- a bimetal snap disc (16) mounted on said body assembly (10, 11, 17);

- an operator (29) operating said switch (18, 22, 23) in response to snap movement of said bimetallic snap disc (16);

- said snap disc (16) and said body (10, 11, 17) together defining a substantially enclosed heater chamber (33) containing air;

- a pair of heater terminals (39, 41) extending outwardly from said heater chamber (33) through apertures (42) provided in said body assembly (10, 11, 17) for connection to a power supply;

- a plurality of resistance heaters (34, 36) within said chamber (33) and positioned on opposite sides of the operator (29), each of said heaters (34, 36) having first (37) and second (38) leads, said leads (37, 38) being secured to respective ones of said heater terminals (39, 41), said heaters being supported (suspended) via said leads (37, 38) by said heater terminals (39, 41) in spaced relationship to said body assembly (10, 11, 17) and in closely spaced proximity to said snap disc (16);

- said body assembly (10, 11, 17) including a partition (13) bounded in a first direction by said heater chamber (33) and in a second direction by said apertures (42).

Regarding claims 2, Bishop disclosed that said operator is movably supported by said partition (13).

Regarding claim 3, Bishop disclosed that said partition (13) comprises a surface operable to reduce the volume of said heater chamber (33) (the surface on which disposed integrally-formed volume-reducing radial webs (47)).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6, 7, and 10, are rejected under 35 U.S.C. 103(a) as being unpatentable over Bishop.

Regarding claims 6, 7, and 10, Bishop disclosed all of the claims limitations as apply to claims 1 and 9 above, but did not specify that the spacing between at least one of said resistance heater and said bimetal snap disc is within a range of about .082" to .062" and the spacing between said heaters and said body is .015".

It would have been obvious to a person of ordinary skill in the thermal switch art at the time the invention was made, to provide any suitable spacing between said heater, said body and said snap disc in order to provide the thermostat of Bishop with specific tripping characteristics, since said spacing is a result effective variable, i.e., the variable which achieves a recognized

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result (i.e. specific temperature depression and, thus specific snapping / tripping points of the bimetal disc / thermostat). It has been held that determination of the optimum or workable ranges or of the proper value of said variable might be characterized as routine experimentation.

*In re Antonie*, 559 F.2d 618, 195 USPC 6 (CCPA 1977), and involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anatoly Vortman whose telephone number is 703-308-7824. The examiner can normally be reached on Monday-Friday, between 9:30am and 6:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Darren Schuberg can be reached on 703-308-4815. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.



Anatoly Vortman  
Primary Examiner  
Art Unit 2835

A.V.